

## **LOCAL GOVERNMENT LAW REFORM BILL (NO. 2)**

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AS REPORTED FROM THE INTERNAL AFFAIRS AND LOCAL  
GOVERNMENT COMMITTEE

### **COMMENTARY**

#### **Recommendation**

The Internal Affairs and Local Government Committee has examined the Local Government Law Reform Bill (No. 2) and recommends that it be passed in the form shown in the reprinted version of the bill.

#### **Conduct of the examination**

The Local Government Law Reform Bill (No. 2) (the bill) was referred to us on 20 July 1999. The closing date for submissions on the bill was 11 August 1999. We received and considered 54 submissions from organisations and other interested groups and individuals. Thirteen submissions were heard orally. Three hours and 54 minutes were spent on the hearing of evidence and consideration took two hours and 26 minutes. We received advice from the Department of Internal Affairs.

At the conclusion of the hearing of evidence, the bill was divided into two separate bills. Part 1 of the bill constitutes the present bill, the Local Government Law Reform Bill (No. 2). Parts 2 and 3 were divided from the bill to form the Local Government Law Reform Bill (No. 3), which was reported back to the House on 31 August 1999.

This commentary sets out the details of our consideration of the bill and the major issues we addressed.

#### **Background**

##### **Bill as introduced was an omnibus bill**

The Local Government Law Reform Bill (No. 2) as introduced was an omnibus bill amending three different Acts. The bill was introduced under Standing Order 259 (c) which provides that a law reform or other omnibus bill to amend more

than one Act may be introduced if the Business Committee has agreed to its introduction.

The bill as introduced was in three parts. Part 1 constitutes the present bill and is concerned with the identification of dangerous breeds of dogs, and provides for amendments to the Dog Control Act 1996 (the Act). The remaining two Parts of the bill as introduced consisted of:

- Part 2, enabling local authorities to ban alcohol in public places on specified days of the year, and providing for amendments to the Local Government Act 1974, and
- Part 3, authorising regional councils to use area rating to fund functions, and providing for amendments to the Rating Powers Act 1988.

Parts 2 and 3 were reported back to the House on 31 August 1999 as the Local Government Law Reform Bill (No. 3).

### **Purpose of the bill is to identify dangerous breeds of dogs**

The bill contains provisions to:

- identify particular breeds or types of dogs as inherently dangerous and, in respect of those dogs already in the country, to impose restrictions on their ownership. It also provides for prohibiting the import of such dogs and their embryos and semen (clauses 3, 4 and 6).
- enable territorial authorities to delegate their functions, duties and powers to committees, sub-committees, dog control officers and dog rangers (clause 5)
- amend consequentially particular sections of the Dog Control Act (clauses 7, 8 and 9).

In the bill as introduced, the provisions relating to restricted dogs apply only to the type of dog known as an American Pit Bull Terrier. However, the provisions are sufficiently flexible to allow other breeds or types of dogs to be added in the future without the need for amending legislation.

### **Report of the Working Party on dangerous dog breeds**

In 1997 a parliamentary Working Party on dangerous dog breeds was set up by the then Minister of Local Government, Hon Christine Fletcher. The terms of reference of the Working Party required it to recommend what action should be taken, in terms of existing statutory powers, to achieve the phased elimination of the American Pit Bull Terrier from New Zealand. The Working Party was chaired by Brian Neeson MP.

The Working Party reported to the Minister in May 1997. The Working Party recommended the phased elimination from New Zealand of American Pit Bull Terrier type dogs. It recommended that this elimination be undertaken urgently, and that it be achieved by the making of regulations under section 78 of the Act and an import prohibition order under section 54 of the Customs and Excise Act 1996. The Working Party considered that the American Pit Bull Terrier warranted special attention because of its unique characteristics, these being its strength of jaw and musculature, its persistence in attack and its tendency to attack unpredictably.

In relation to other breeds of dog, the Working Party recommended that serious consideration be given to regulating the Brazilian Fila breed in the same way as proposed for the American Pit Bull Terrier, if investigations showed reports of the existence and breeding of Brazilian Fila dogs to be substantiated. It also

recommended a prohibition on the importation of the Japanese Tosa, Dogo Argentino and Brazilian Fila breeds.

Subsequently, however, Parliamentary Counsel advised that action be taken by amending the Act rather than by making regulations. In the opinion of Parliamentary Counsel, it was not possible to enact regulations under section 78 of the Act that would mirror the provisions relating to dogs classified as dangerous. While some of the provisions could be made by regulation, others would be outside the regulation-making powers.

### **Change to Short Title of bill**

We recommend that the Short Title of the bill be changed from the Local Government Law Reform Bill (No. 2) to the Dog Control Amendment Bill, in order to reflect more accurately the nature of the present bill.

### **Submissions received on Part 1 of the bill as introduced**

Fifty four submissions were received on the Local Government Law Reform Bill (No. 2), 44 of which comment on the proposed amendments to the Act. The greater part of these submissions focus on proposed new sections 33A to 33K, as inserted by clause 6 of the bill. These sections provide for every dog of a type or breed specified in the new Fourth Schedule added by the bill to be a restricted class of dog. A significant majority of these submissions oppose the proposed amendments to the Act.

Of those submitters who commented on clause 5, all territorial authorities, unanimous support was expressed for the proposed amendments that allow authorities to delegate their functions. General support was expressed for the consequential amendments to the Act amongst those submitters who commented on the provisions.

### **Issues raised by those submitters who support the bill proceeding**

#### **Restricting breeds of dog other than the American Pit Bull Terrier**

Brian Neeson MP submits that, in line with the recommendations of the Working Party on dangerous dogs, three other breeds of dog should be added to the proposed Fourth Schedule as restricted breeds of dog. These three breeds are the Japanese Tosa, the Dogo Argentino and the Brazilian Fila. The Horowhenua District Council would also like to see a wider range of dogs listed as restricted.

The New Zealand Kennel Club, the All Mastiff Breeds Club and Kerry Roth strongly oppose any restriction being placed upon the Brazilian Fila breed. They ask to be consulted if any ban on the breed is being considered.

#### **Expert panel to protect the interests of dog owners**

The Horowhenua District Council suggests the appointment of an expert panel, to be appointed and funded by central government, which would serve to ensure that the interests of dog owners are dealt with in a procedurally fair and consistent way by all territorial authorities.

## **Issues raised by those submitters who support only some parts of the bill**

### **Limiting the bill to banning the importation of restricted breeds**

The Waikato District Council supports only those parts of the bill that will impose a ban on the importation of restricted dogs, semen and embryo.

The Tauranga District Council does not support the bill proceeding but would like to see amendments to central government legislation designed to ban the importation of restricted dogs, semen and embryo that do not create any responsibilities for local government.

### **Giving territorial authorities greater powers under the bill**

The Hutt City Council submits that the bill should proceed only with certain amendments intended to make its enforcement more workable for territorial authorities. The council considers that territorial authorities should be able to choose whether to define a dog as restricted, rather than being required to do so, and that the territorial authority's decision as to whether a dog is of a restricted breed should be final, with no right of appeal to the District Court. It also believes that a dog ranger should have the power to seize and neuter a dog where an owner fails to do so, and that the cost to a territorial authority of implementing the amended Act should be borne by owners of restricted dogs.

## **Issues raised by those submitters who oppose the bill proceeding**

### **Appropriateness of the breed-specific approach adopted by the bill**

Submitters strongly criticise the bill's adoption of a breed-specific approach to dog control. They feel there is insufficient evidence to justify singling out any one particular breed of dog as inherently dangerous. They feel that the focus should be on controlling individual dangerous dogs, based on the behaviour of each dog, rather than on identifying an entire breed as inherently dangerous.

The New Zealand Veterinary Association believes that any breed of dog has the potential to be dangerous and that dog behaviour is a product of conditioning and socialisation, as well as genotype. It considers banning a specific breed or breeds of dog to be an overly simplistic response to a complex problem.

### **Appropriateness of singling out the American Pit Bull Terrier above all other breeds**

Submitters argue that there is no evidence of particular breeds of dog being more dangerous than other breeds. In particular, they consider that the American Pit Bull Terrier has not been shown to be more dangerous than other breeds. Statistics of dog bites submitted by various councils suggest that other breeds of dog are significantly more likely to bite people.

The Royal New Zealand Society for the Prevention of Cruelty to Animals submits that, while some breeds are acknowledged as being more forceful by nature, all breeds are capable of being controlled by an experienced owner.

### **Effectiveness of increased regulation of dog owners**

Many submitters argue that dog behaviour is determined by the behaviour of the owner, rather than the breed of the dog. They believe that any amendments to the Act should focus on the issue of regulating and possibly licensing the nature and behaviour of owners, rather than on restricting particular breeds of dog.

The Tauranga District Council advocates an amendment to section 25 of the Act. The council submits that, in the experience of its dog control officers, it is extremely difficult for an owner to be disqualified under the existing section 25. It supports amending section 25 so that an owner can be disqualified after committing either two infringement offences or one more serious specified offence, without the requirement that he or she must first be a probationary owner.

#### **Accurate identification of breeds**

Submitters are extremely concerned by the difficulties involved in identifying some types or breeds of dog in that classification of such dogs as being of a restricted breed or type will have to be based on visual inspection in relation to physical characteristics. Submitters point out that a great deal of cross-breeding has occurred with these types of dogs, making accurate identification even more difficult.

The New Zealand Veterinary Association states that it is not possible to identify American Pit Bull Terriers accurately on the basis of visual assessment alone, as the breed can easily be confused with other breeds. It points out the lack of scientific correlation between a dog's physical characteristics and its genetic make-up. The Association does not support veterinarians being used to identify particular breeds or cross-breeds on the basis of visual assessment alone.

The New Zealand Kennel Club states that the American Pit Bull Terrier is not a breed that is recognised by any internationally accredited national canine control authority. Consequently, the club submits that there is no organisation either locally or internationally that can give a definitive description of the breed.

The Royal New Zealand Society for the Prevention of Cruelty to Animals considers that many breeds are extremely difficult to identify, and points out that the American Pit Bull Terrier is derived from a combination of at least five different breeds.

Local Government New Zealand opposes the bill primarily because it believes territorial authorities will have significant difficulties in accurately identifying American Pit Bull Terriers. It considers that it is impossible to identify these dogs with the necessary degree of certainty and that the cross-breeding that has occurred with some of these types of dogs will further exacerbate the situation.

#### **Adequacy of the description in the new Fourth Schedule**

The New Zealand Veterinary Association considers that the description contained in the new Fourth Schedule could be applied to the American Staffordshire Terrier, the Staffordshire Bull Terrier, the English Bull Terrier and numerous crosses, both within and outside these breeds, including Boxers, Labradors, Retrievers, Bull Mastiffs and pig dogs.

The Northern Staffordshire Bull Terrier Club is concerned that the general nature of the description of the American Pit Bull Terrier will result in Staffordshire Bull Terriers and American Bull Terriers being mistakenly identified as restricted dogs. The club wants the reference in the new Fourth Schedule to the Staffordshire Bull Terrier deleted.

#### **Cost to territorial authorities in implementing the bill**

Territorial authorities express concern that the costs of enforcing the bill will be unreasonably high. They are concerned that increased costs will be borne by

ratepayers generally or by dog owners generally, rather than by the owners of problem dogs.

The South Waikato District Council considers that the costs of implementing the bill would be excessive. Costs would include salaries for extra staff, printing of forms, legal representation, setting up committees for hearing objections, time involved in appeals to the District Court and extra pressure on council infrastructure. It points out that, given that an estimated 20 hours is needed to classify a dangerous dog, the council would take four years to classify the 550 dogs in its district which may be American Pit Bull Terriers.

#### **Risk that restricted breeds will be driven underground**

Concern is expressed that restricting certain breeds of dog may result in those breeds being driven “underground”, particularly given some of the types of people who choose to own such dogs.

The Waitakere City Council considers that any attempt to eliminate a particular breed of dog may result in black market breeding of that dog and in the sale of illegal dogs which would be unregistered and largely untraceable to their owners if problems occur.

The New Zealand Veterinary Association points out that, if American Pit Bull Terriers are successfully eliminated from New Zealand, other breeds will be taken up by those owners who want dangerous and aggressive dogs. The Association believes that any breed of dog can be trained to be aggressive.

#### **Experience of overseas jurisdictions**

Submitters are concerned by the experience of overseas jurisdictions that have tried to ban particular breeds of dog, such as the American Pit Bull Terrier. The experience of the United Kingdom was frequently referred to. Submitters argue that identification of particular breeds has proven to be a legal minefield, and that the legislation has resulted in prolonged legal action involving territorial authorities.

The New Zealand Kennel Club considers that the United Kingdom legislation has proven to be unenforceable and extremely costly.

#### **Effectiveness of the present regime**

Strong support is expressed for the current legislative regime. Submitters feel that the Act as it stands has sufficient force to deal appropriately with dangerous dogs. They point out that the Act has been in force for only a short period of time and that no assessment has been undertaken of its effectiveness in controlling dangerous dogs. Many submitters believe that a comprehensive assessment of the effectiveness of the Act is needed, before any amendments to it are undertaken. There are indications that the Act is having a significant positive effect on dog control in New Zealand.

Local Government New Zealand believes that the present regime has resulted in a greater understanding in New Zealand of the types of dog and the kind of owner behaviour that are unacceptable. It argues that the appropriate course of action at this point in time is to continue education, improve dog ownership recording systems and encourage the adoption of better dog ownership practices.

The New Zealand Veterinary Association believes that the Act has sufficiently robust mechanisms to deal appropriately with dangerous dogs. It argues that, in the three years in which the Act has been operational, the number of reported dog attacks on humans has virtually halved.

### **Further suggested amendments to the bill**

Clause 8 of the bill repeals section 62 of the Act, which makes it an offence for an owner to permit a dangerous dog to be at large while unmuzzled, and substitutes a new section 62 that makes it an offence for an owner to permit either a dangerous dog or a restricted dog to be at large while unmuzzled. The Tauranga District Council submits that clause 8 should be deleted, on the basis that it does not support the restricted dog provisions of the bill. However, the council supports making a separate amendment to section 62 (1) (b).

The council submits that the courts have interpreted the word “permits” narrowly to require an element of connivance. Mere carelessness on the part of the owner is insufficient to constitute an offence under this section. Accordingly, the council submits that the section should be amended to cover those instances where an unmuzzled dog is at large as a consequence of the carelessness of its owner. It also recommends an amendment to section 62 (1) (b) to ensure that a dog which has attacked domestic animals or protected wildlife must be muzzled in public. At present, a dog must be muzzled only if it has attacked people, property, stock or poultry.

The New Zealand Kennel Club asks for an amendment to the bill providing that no breed officially recognised by the club can be classified as a restricted breed.

### **Committee’s consideration of the bill**

We have considered the issues raised by submitters. We acknowledge the arguments put by those submitters who oppose the bill proceeding. However, on balance, we consider that it is more important that the Government take positive action both to restrict the breeding of dangerous breeds of dog in New Zealand and to ban the importation of dangerous breeds of dog into New Zealand. While we accept that the owner of a dog has a significant effect on that dog’s behaviour, we nevertheless believe that some breeds of dog are inherently more dangerous than others and have the capacity to inflict more serious injury than do other breeds. Accordingly, we endorse the approach of the bill and consider that it is appropriate at this stage to declare only the American Pit Bull Terrier to be a restricted class of dog.

We have recommended an amendment deleting the reference to American Staffordshire Terrier and the Staffordshire Bull Terrier from the Fourth Schedule on the basis of submissions received.

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## KEY TO SYMBOLS USED IN REPRINTED BILL

AS REPORTED FROM A SELECT COMMITTEE

*Struck Out (Unanimous)*

Subject to this Act,

Text struck out unanimously

*New (Unanimous)*

Subject to this Act,

Text inserted unanimously

*(Subject to this Act,)*

Words struck out unanimously

Subject to this Act,

Words inserted unanimously

. . . . .

Denotes provisions divided from this bill as  
Local Government Law Reform Bill (No. 3)



*Hon Maurice Williamson*

**(LOCAL GOVERNMENT LAW REFORM (NO. 2))  
DOG CONTROL AMENDMENT**

ANALYSIS

- Title
1. Short Title and commencement
  3. Power to amend Fourth Schedule by Order in Council
  4. Objects
  5. Delegation of powers by territorial authority
  6. New sections inserted

*Restricted Dogs*

- 33A. Restricted class of dog
- 33B. Territorial authority to identify restricted dog and notify owner
- 33C. Restricted dogs
- 33D. Objection to dog being identified as a restricted dog
- 33E. Appeal to District Court against territorial authority determination
- 33F. Effect of being identified as restricted dog
- 33G. Prohibition on importation of restricted dogs or the embryo or semen of restricted dogs

- 33H. Application of Customs and Excise Act 1996
- 33I. Referral to advisory panel
- 33J. Advisory panel
- 33K. Advisory panel to determine whether dog restricted dog or embryo or semen that of restricted dog
7. Dogs attacking persons or animals or rushing at vehicles
8. Allowing dogs known to be dangerous or restricted to be at large unmuzzled
9. Regulations
10. New Fourth Schedule

SCHEDULE

NEW FOURTH SCHEDULE ADDED TO  
DOG CONTROL ACT 1996

"FOURTH Schedule

Dogs of a Restricted Class

A BILL INTITULED

**An Act to amend the Dog Control Act 1996, the Local Government Act 1974, and the Rating Powers Act 1988)**

BE IT ENACTED by the Parliament of New Zealand as follows:

5     **1. Short Title and commencement**—(1) This Act may be cited as the **(Local Government Law Reform Act (No. 2)) Dog Control Amendment Act 1999**.

10    (2) **Sections 33G to 33K**, as inserted by **section 6** of this Act, come into force on a date to be appointed by the Governor-General by Order in Council.

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(3) The rest of this Act comes into force on the day after the date on which it receives the Royal assent.

*Struck Out (Unanimous)*

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PART 1

DOG CONTROL ACT 1996

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**2. Part to be part of Dog Control Act 1996**—This Part is part of the Dog Control Act 1996\* (in this Part referred to as the principal Act).

\*1996, No. 13

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**3. Power to amend Fourth Schedule by Order in Council**—The principal Act is amended by inserting, after section 3, the following section:

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“3A. (1) The Governor-General may, from time to time by Order in Council,—

“(a) Amend the **Fourth Schedule** by including the name of any type or breed of dog and a description of that type or breed of dog:

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“(b) Otherwise amend the **Fourth Schedule**, or revoke that schedule, and substitute a new schedule.”

**4. Objects**—Section 4 (a) (ii) of the principal Act is amended by inserting, after the words “dangerous dogs”, the words “and restricted dogs”.

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**5. Delegation of powers by territorial authority**—The principal Act is amended by inserting, after section 6, the following section:

“6A. (1) The territorial authority may from time to time delegate to any committee, sub-committee, dog control officer, or dog ranger all or any of its functions, duties, or powers under this Act.

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“(2) Subject to any general or special directions or conditions imposed by the territorial authority, a committee, sub-committee, dog control officer, or dog ranger to whom a function, duty, or power is delegated may exercise that function, duty, or power in the same manner and with the same effect as if it had been conferred directly by this Act and not by delegation.

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“(3) A delegation must be in writing and must be recorded in a delegations register maintained by the territorial authority.

“(4) No delegation includes the power to delegate under this section.

5 “(5) A person purporting to act under a delegation is, in the absence of proof to the contrary, presumed to be acting in accordance with the terms of the delegation.

“(6) A delegation may be made to a specified committee, sub-committee, dog control officer, or dog ranger.

10 “(7) A delegation is revocable in writing at will, but any revocation of the delegation does not take effect until it is communicated to the delegate.

“(8) A delegation, until it is revoked, continues in force according to its tenor.

15 “(9) A delegation does not affect or prevent the exercise of any function, duty, or power by the territorial authority.

“(10) No delegation affects the responsibility of the territorial authority for the actions of any person acting under the delegation.”

20 **6. New sections inserted**—The principal Act is amended by inserting, after section 33, the following headings and sections:

“*Restricted Dogs*

25 “33A. **Restricted class of dog**—Every dog of a type or breed specified in column 1 of the **Fourth Schedule** and described in column 2 of that schedule is a restricted class of dog.

30 “33B. **Territorial authority to identify restricted dog and notify owner**—(1) A territorial authority must take all reasonable steps to identify every restricted dog within its district.

“(2) A territorial authority must, immediately after identifying a dog as a restricted dog, give notice in the prescribed form of the identification to the owner of the dog.

35 “33C. **Restricted dogs**—(1) For the purposes of **sections 33B and 33H**, a dog is a restricted dog if, and only if, the territorial authority or an advisory panel convened under **section 33J** believes that the dog—

“(a) Fits the description of a restricted class of dog; or

40 “(b) Displays the characteristics of a hybrid of 2 different restricted classes of dog; or

“(c) Substantially corresponds to a dog described in **paragraph (a) or paragraph (b)**.

“**33D. Objection to dog being identified as a restricted dog**—(1) If a dog is, under **section 33B (1)**, identified as a restricted dog by a territorial authority, the owner—

“(a) May, within 14 days of receiving a notice under **section 33B (2)**, object to the identification by giving written notice of objection to the territorial authority; and

“(b) Is entitled to be heard in support of the objection.

“(2) In considering the objection, the territorial authority must have regard to—

“(a) The evidence on which the identification was made; and

“(b) The relevant description or descriptions in column 2 of the **Fourth Schedule**; and

“(c) The matters advanced in support of the objection; and

“(d) Any other relevant matters.

“(3) The territorial authority must either confirm or withdraw its identification of the dog as a restricted dog.

“(4) The territorial authority must, as soon as practicable after making its decision, give written notice to the owner of its decision and the reasons for its decision.

“**33E. Appeal to District Court against territorial authority determination**—(1) A person who has lodged an objection under **section 33D** and is dissatisfied with the decision of the territorial authority may, within 14 days after the day on which notice of that decision is given to that person, appeal to a District Court against that decision.

“(2) In hearing the appeal the District Court must consider the matters specified in **section 33D (2)** and any submission by the territorial authority in support of its identification of a dog as a restricted dog, and may uphold or overturn the territorial authority’s identification of the dog as a restricted dog.

“**33F. Effect of being identified as restricted dog**—(1) If a dog is identified under this Act as a restricted dog, the owner of that dog—

“(a) Must ensure that, from a date not later than 1 month after the receipt of notice of identification under **section 33B (2)**, the dog is kept within a securely fenced portion of the owner’s property which it is not necessary to enter to obtain access to at least 1 door of any dwelling on the property; and

“(b) Must not allow the dog to be at large or in any public place or in any private way other than when

confined completely within a vehicle or cage, without being muzzled in such a manner as to prevent the dog from biting, but allow it to breathe and drink without obstruction; and

5 “(c) Must produce to the territorial authority, within 1 month after the receipt of notice of identification under **section 33B (2)**, a certificate issued by a registered veterinary surgeon and certifying—

“(i) That the dog is or has been neutered; or

10 “(ii) That for reasons that are specified in the certificate, the dog will not be in a fit condition to be neutered before a date specified in the certificate; and

15 “(d) Must, where a certificate under **paragraph (c) (ii)** has been produced to the territorial authority, produce to the territorial authority, within 1 month after the date specified in that certificate, a further certificate under **paragraph (c)**; and

20 “(e) Must, in respect of every registration year commencing after the date of receipt of the notice of identification under **section 33B (2)**, be liable for dog control fees for that dog at the prescribed level, which must not be less than 150% of the level that would apply if the dog were not a restricted dog; and

25 “(f) Must not, without the written consent of the territorial authority in whose district the dog is to be kept, dispose of the dog to any other person.

30 “(2) If a person has, within 14 days after the date on which notice of identification under **section 33B (2)** is given to that person, lodged an objection under **section 33D, subsection (1)** of this section applies in relation to that person as if the reference in that subsection to **section 33B (2)** were a reference to **section 33D (4)**.

35 “(3) If a person has, within 14 days after the date on which the notice of identification under **section 33D (4)** is given to that person in respect of an objection to which **subsection (2)** of this section refers, lodged an appeal under **section 33E, subsection (1)** of this section applies in relation to that person as if the reference in that subsection to the date on which the notice under **section**  
40 **33B (2)** was given to that person were a reference to the date of the decision of a District Court on that appeal upholding the territorial authority’s identification of the dog as a restricted dog.

“(4) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$1,500 who fails to comply with **subsection (1)**.

“(5) Where a court convicts a person of an offence against **subsection (4)**, the court must make an order for the destruction of the dog unless satisfied that the circumstances of the offence were exceptional and do not justify the destruction of the dog. 5

“(6) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$1,500 who sells or otherwise transfers, or offers to sell or transfer, to any other person any dog known by that person to be identified as a restricted dog without disclosing the fact of that identification to that other person. 10

“**33G. Prohibition on importation of restricted dogs or the embryo or semen of restricted dogs**—The importation into New Zealand of a restricted dog, or the importation into New Zealand of the embryo or semen of a restricted dog, is prohibited. 15

“**33H. Application of Customs and Excise Act 1996**—The provisions of the Customs and Excise Act 1996 that apply to prohibited imports apply to restricted dogs and the embryo and semen of restricted dogs, whose importation is prohibited by **section 33G**, in all respects as if the importation of those dogs and the embryo and semen of those dogs were prohibited under Part V of the Customs and Excise Act 1996. 20 25

“**33I. Referral to advisory panel**—If, following an examination by a Customs officer under section 151 of the Customs and Excise Act 1996, the question arises whether—

“(a) A dog is a restricted dog; or

“(b) Any embryo or semen is that of a restricted dog,— the Customs officer must advise the chief executive of the New Zealand Customs Service, or a person authorised by the chief executive for that purpose, who must refer the question to an advisory panel convened under **section 33J** for its determination. 30 35

“**33J. Advisory panel**—(1) The chief executive of the New Zealand Customs Service, or a person authorised by the chief executive for that purpose, must convene an advisory panel when required for the purpose of determining whether or not— 40

“(a) A particular dog imported into New Zealand is a restricted dog; or

“(b) Any embryo or semen imported into New Zealand is that of a restricted dog.

5 “(2) In considering the suitability of a person for inclusion on an advisory panel, regard must be had to that person’s knowledge of and ability to identify different types and breeds of dog.

10 “33k. **Advisory panel to determine whether dog restricted dog or embryo or semen that of restricted dog**—(1) The advisory panel must determine whether a particular dog imported into New Zealand is a restricted dog or, in the case of any embryo or semen imported into New Zealand, whether that embryo or semen is that of a restricted dog.

15 “(2) The advisory panel must, as soon as practicable after making its determination, give notice in writing of its determination and the reasons for its determination to—

20 “(a) The chief executive of the New Zealand Customs Service or a person authorised by the chief executive for that purpose; and

“(b) The person who imported the dog or embryo or semen.

“ (3) The determination of the advisory panel is admissible as evidence in any proceedings.”

25 **7. Dogs attacking persons or animals or rushing at vehicles**—Section 57 (3) of the principal Act is amended by inserting, after the words “dog control officer” wherever they occur, the words “or dog ranger”.

**8. Allowing dogs known to be dangerous or restricted to be at large unmuzzled**—The principal Act is amended by repealing section 62, and substituting the following section:

30 “62. (1) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$1,500 who permits any dog owned by that person and known by that person—

35 “(a) To be dangerous; or

“(b) To be a restricted dog; or

“(c) To have attacked any person or any stock or poultry or property of any kind,—

40 to be at large or in any public place or private way, other than when confined completely within a vehicle or cage, without being muzzled in such a manner as to prevent the dog from biting, but allow it to breathe and drink without obstruction.

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“(2) Where any person is convicted of an offence against **subsection (1)**, the court may make an order for the destruction of the dog.

“(3) Nothing in this section applies in respect of any dog kept by the police or any constable, the New Zealand Customs Service, or the Ministry of Defence or any member of the Defence Force, or any officer or employee of the New Zealand Customs Service, or the Ministry of Defence while being used for the purpose of carrying out in a lawful manner any function, duty, or power of the police, or the Service, or Ministry, or that constable, member of the Defence Force, officer, or employee.”

**9. Regulations**—Section 78 of the principal Act is amended by repealing subsections (1) (c), (2), and (3).

**10. New Fourth Schedule**—The principal Act is amended by adding the **Fourth Schedule** set out in the Schedule of this Act.





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Dog Control Amendment

9

SCHEDULE

Section 10

NEW FOURTH SCHEDULE ADDED TO DOG CONTROL ACT 1996

"FOURTH SCHEDULE

Section 33A

DOGS OF A RESTRICTED CLASS

Column 1 Restricted type or breed	Column 2 Description
American Pit Bull Terrier	<p>HEAD—Medium length. Brick-like in shape. Skull flat and widest at the ears, with prominent cheeks free from wrinkles. No pronounced stop.</p> <p><i>Muzzle</i>—Square, wide, and deep. Well pronounced jaws, displaying strength. Upper teeth should meet slightly over lower teeth, outside in front.</p> <p><i>Ears</i>—Cropped or uncropped (not important). Should set high on head, and be free from wrinkles.</p> <p><i>Eyes</i>—Round. Should set far apart, low down on skull. May be any colour.</p> <p><i>Nose</i>—Wide open nostrils. Any colour acceptable.</p> <p><i>Neck</i>—Muscular. Slightly arched. Tapering from shoulder to head. Free from looseness of skin.</p> <p>SHOULDERS—Strong and muscular with wide sloping shoulder blades.</p> <p>BACK—Short and strong. Slightly sloping from withers to rump. Slightly arched loins, which should be slightly tucked.</p> <p>CHEST—Deep, but not too broad, with wide sprung ribs.</p> <p>RIBS—Close, well sprung, with deep back ribs.</p> <p>TAIL—Short in comparison to size. Set low and tapering to a fine point. Not carried over back. Bobbed tail not acceptable.</p> <p>LEGS—Large, round boned, with straight, upright pasterns, reasonably strong. Feet to be of</p>

*(Local Government Law Reform (No. 2))  
Dog Control Amendment*

SCHEDULE—*continued*

NEW FOURTH SCHEDULE ADDED TO DOG CONTROL ACT 1996—*continued*

“FOURTH SCHEDULE—*continued*

DOGS OF A RESTRICTED CLASS—*continued*

Column 1 Restricted type or breed	Column 2 Description
	<p>medium size. Gait should be light and springy. No rolling or pacing.</p> <p>THIGH—Long with muscles developed. Hocks down straight.</p> <p>COAT—Glossy. Short and stiff to the touch.</p> <p><i>Colour</i>—Any colour or markings are permissible.</p> <p>HEIGHT—From 40 cm to 56 cm</p> <p>WEIGHT—Not important. Females preferred from 14 kg to 23 kg. Males from 16 kg to 27 kg. A major common feature is the powerful head and strong muzzle (<i>these features are somewhat similar to the American Staffordshire Terrier or the Staffordshire Bull Terrier</i>).</p>